

Section 11- Implementation of Greenway and Trail Corridors⁸⁰

The James City County greenway program has two fundamental goals: to preserve a network of connected open spaces; and secondly, to provide walking and bicycling trails within some of these linear open spaces. A variety of means are currently available for acquiring land and funding capital improvements. These greenway development mechanisms must balance available resources, citizen requests, and projected needs as determined in the greenway action plan. The public perception of many greenway programs is often directed towards trail development, however, the preservation of land and water resources, wildlife habitats, scenic landscapes, and environmental protection collectively enhance the natural quality of life experience in the community for all citizens.

Trail building and land acquisition are inherently interrelated. Without adequate land, trails cannot be built. Some lands support important ecosystems that deserve protection⁸¹ and should be evaluated on a site-specific basis to determine whether they are suitable for recreational trails. Trail building is an exciting component of the greenway program but must remain secondary to the primary goal of land conservation.

11.1 Land Acquisition Options

The first step towards implementing the greenway program is a sustained long-term commitment towards land acquisition. Substantial tracts of land and easements are essential to the success of this program. This section represents a composite of various implementation strategies used by other jurisdictions around the country. Some are currently in use in James City County, while others are restricted at this juncture. Should these strategy restrictions change in the future, it will enhance our ability to implement this Greenway Master Plan. Additional acquisition and implementation data is available in Appendix 13.6. Five methods of acquiring and dedicating lands include: fee-simple purchases, multi-objective properties, donations, easements and regulatory means.

Fee Simple Purchases

Fee simple ownership of land gives the County clear title to property. It provides the simplest, and sometimes the most feasible, approach towards acquiring land. Greenway lands are often marginally developable and unsuitable for most development activity. The liability of these lands from a real estate tax perspective creates an opportunity for some developers to reduce their tax burden by selling or deeding the property to the County. Funds to purchase lands are detailed under fiscal options. Some fee simple purchase options are detailed below:

- Purchase/Lease Back - These public land acquisitions are leased back to the seller, or another party, for use during a specific period of time or until it is needed. Properties may be purchased well in advance of their need as a park or greenway and may contain restrictions regarding the use and development of the property.
- Bargain Sale - A property owner can sell property at a price less than the appraised fair market value of the land. Sometimes the seller can derive the same benefits as if the property

⁸⁰ This chapter is assembled from several greenway master plans, principally the Roanoke Greenway Master Plan done by Greenways, Inc. Other sources are from Prince William, VA, Raleigh, NC and Chapel Hill, NC.

⁸¹ Chapel Hill Greenways, Comprehensive Master Plan, Chapel Hill, North Carolina, 1998, p.65.

were donated. Bargain sales are attractive to sellers when the seller wants cash for the property, the seller paid a low cash price and thus is not liable for high capital gains tax, and/or the seller has a fairly high current income and could benefit from a donation of the property as an income tax deduction. The lost capital gain, which is the appraised value less the sales price, is taken as a tax deduction.

- Option/First Right of Refusal - A local government agency or private organization establishes an agreement with a public agency or private property owner to provide the right of first refusal on a parcel of land that is scheduled to be sold. This form of agreement can be used in conjunction with other techniques, such as an easement, to protect the land in the short term. An option would provide the agency with sufficient time to obtain capital to purchase the property or successfully negotiate some other means of conserving the greenway resource.
- Easement Purchase - This mechanism is the fee simple purchase of an easement. Full title to the land is not purchased, only those rights granted in the easement agreement. Therefore the easement purchase price is less than full title value.
- Tax Foreclosures - Occasionally lands suitable for parkland, greenways and open space may be foreclosed due to failure of the private landowner to pay property taxes, enabling the County to purchase the land at a very low price.
- Condemnation - The practice of condemning private land for use as greenways is viewed as a last resort policy. Using condemnation to acquire property or property rights can be avoided if private and public support for the Greenway Program is present. Other successful "greenway communities" have seldom used condemnation for the purpose of dealing with an unwilling property owner. In most cases, condemnation for greenway purposes has been exercised when there has been absentee property ownership, when title to the property is not clear, or when it becomes apparent that obtaining the consent for purchase will be difficult because there are numerous heirs located in other parts of the United States, or in different countries.

The community must exercise caution in using Eminent Domain. It is recommended that the right of eminent domain for a specific property be exercised by the community only if all of the following conditions exist:

1. The property is valued by the community as an environmentally sensitive parcel of land, significant natural resource, or critical parcel of land, and as such has been defined by the community as an irreplaceable property;
2. Written scientific justification for the community's claim that the property possesses such value is prepared and offered to the property owner;
3. All efforts to negotiate with the property owner for the management, regulation and acquisition of the property have been exhausted and that the property owner has been given reasonable and fair offers for compensation and has rejected all offers;
4. Due to the ownership of the property, the time frame for negotiating the acquisition of the property will be unreasonable, and in the interest of pursuing a cost effective method for acquiring the property, the community has deemed it necessary to exercise the right of eminent domain.

Multi-Objective Properties

Opportunities to implement greenway and trail facilities on existing public lands should be examined as the first alternative prior to acquiring property. Recreational greenways can be

accommodated on many schools, parks, water and sewer easements, utility corridors, railroad and highway right-of-ways, and other public facilities without compromising their original purpose. The benefit of integrating multiple programs and objectives on the same land is environmentally beneficial and fiscally responsible. When practical, newly acquired lands should be surveyed with multi-objective programs in mind.

Donations

Donations typically include full transferal of property to a municipality or land trust for a specific use or purpose that may be simple or complicated by extensive conditions. Financial incentives in the form of tax credits are available in most cases. A local government agency agrees to receive full title to a parcel of land at virtually no cost. In most cases, the donor is eligible to receive federal and state deductions on personal income, as described under conservation easements. In addition, property owners may be able to avoid inheritance taxes, capital gains taxes, and recurring property taxes. Other gift methods include:

- Reserved Life Estate- are gifts of land that provide the donor with a tax benefit plus the use of the property during the remainder of their lifetime.
- Partial Donations- give the owner some compensation as well as limited tax benefits.
- Right-of-Way or Easement Donations- are where the owner receives a tax benefit by allowing a limited use of the land.
- Estate Donations- include wills, estates, and trusts that may be dedicated to the appropriate agency for use in developing and/or operating the greenway system.

Easements

The purpose of greenway easements is to establish legally binding contracts for the conveyance of interest in land based on a mutual understanding of the specific use, treatment, and protection that greenway lands will receive. Property owners who grant easements retain all rights to the property except those that have been granted by the easement. The property owner is responsible for all taxes associated with the property, less the value of the easement granted. Easements are generally restricted to certain portions of property, although in some cases an easement can be applied to an entire parcel. Easements are usually transferable through title transactions, thus the easement can remain in effect in perpetuity. Three types of greenway easements, which may be appropriate for use in James City County, are:

- Conservation Easements - This type of easement generally prevents development and establishes permanent limits on the use and development of land in order to protect the natural resources of that land. Dedicated conservation easements usually qualify for both federal income tax deductions and state tax credits. Conservation easements, depending on how they are written, may or may not grant the public the right-of-access to the property.
- Preservation Easements - This type of easement is intended to protect the historical integrity of a structure or important elements of the landscape by sound management practices. Preservation easements may qualify for the same federal tax deductions and state tax credits as conservation easements.
- Public Access Easements - Right-of-public-access easements provide the general public with the right to use a specific parcel of property. Both conservation easements and preservation

easements may contain clauses for the type of public access and still be eligible for tax incentives. It is important to realize that one form of easement use, such as a sewer line, does not provide the rights for another use, such as a trail. In such cases, a separate easement is needed.

Regulatory Options

Regulatory tools can help meet the challenges of projected urban and suburban growth and, at the same time, conserve and protect greenway resources. There are a variety of methods available throughout the country, but not all regulatory options can be used in Virginia. Some require changes in state law; others may require zoning ordinances that do not currently exist in the County. The mandatory dedication of parkland and greenways should be supported through the County Comprehensive Plan and Development Ordinances. Should any of these strategy restrictions change in the future, it will enhance our ability to implement this Greenway Master Plan. Additional acquisition and implementation data is available in Appendix 13.6.a.

11.2 Funding Mechanisms

The most common method for funding greenways is to combine local, public-sector, and private-sector funds with state and federal resources. Many communities involved with greenway implementation are choosing to leverage local money as a match for outside funding sources, in essence multiplying their resources. Future greenway development in the County should rely on local advocates and government staff to pursue a variety of funding sources for land acquisition and greenway construction. A greenway program that relies on limited funding sources may one day come to a grinding halt should these funding sources dry up.

The funding sources cited below represent a few of the major greenway funding opportunities that have been pursued by other communities. This list provides an outline to help organize various means of funding for greenway and trail implementation. Additional funding and implementation data is available in Appendix 13.6.c.

Local Funding Programs

JCC Real Estate Tax Allocation for Open Space Acquisition

In 1996, James City County Board of Supervisors approved a rate hike in the Real Estate Tax of one-cent for open space land acquisitions. As development in the County increases, this assessment-based funding mechanism will increase proportionally. To date, over \$2.5 million has been allocated, in addition to \$2.7 million from a twice-per-year tax collection windfall in 1997. Land acquisition strategies include parcels identified as greenway corridors. It is administered through the Department of Development Management (objectives are detailed in Section 5.4.b.) A similar program could be implemented to support a sustained greenway and trail program, as is recommended in the Action Plan.

JCC Purchase of Development Rights Program

Approved by the Board of Supervisors on November 27, 2001, this land conservation tool is specifically designed to preserve prime agricultural farmland, forestland, open spaces, cultural resources, and other lands that protect the rural character of the community. There is no designated funding plan at this time, but money has been allocated from the general fund.

Bond Referendums for Greenways

Communities across the nation have successfully placed on local ballots propositions to support greenway development. The Charlotte-Mecklenburg County, North Carolina, area passed four consecutive referendums that generated more than \$3 million for greenways. Guilford County, North Carolina, passed a referendum in 1986 that appropriated \$1.6 million for development of a specific greenway corridor. In Cheyenne, Wyoming, a greenway bond referendum was used to fund the first three miles of local greenways. Residents throughout the United States have consistently placed a high value on local greenway development and voted to raise their own taxes in support of greenway implementation. Considering the popularity of greenways in the community, bond referendums may be successful.

Greenway CIP Funding

Perhaps the true measure of any local government's commitment to greenways is a yearly appropriation for trail development through a Capital Improvements Program (CIP). James City County greenway and trail development is appropriated through an annual \$50,000 CIP funding account, administered through the Division of Parks and Recreation. This is separate from the one-cent open space fund for land acquisition. Annual and routine trail maintenance will be managed through the Parks and Recreation annual Operations Budget, as is typical for all parks. As public demand for greenway projects increase, complementary increases in the Greenway CIP may warrant future consideration.

Parks CIP Funding

In some instances, trails may be an integral part of a parks development program. These multi-program park projects may include trails as a component of a development phase along with parking areas, restrooms, concession facilities, lighting, signage, and/or other site improvements. These are more common especially when matching funds from a grant award are involved. Trails that are considered stand-alone projects are typically funded through the Greenway CIP.

Special Appropriations

Funds not identified in the Capital or Operating Budgets can also be appropriated by the Board of Supervisors as a special project initiated by the Board.

Greenway Trust Fund

Another strategy used by several communities is the creation of a trust fund for land acquisition and facility development that is administered by a private greenway advocacy group, or by a local greenway commission. A trust fund can aid in the acquisition of large parcels or high priority properties that may be lost if not acquired by private sector initiative. Money may be contributed to the trust fund from a variety of sources, including the municipal and county general funds, private grants, and gifts. The Division of Parks and Recreation has advocated for a Parks and Recreation Trust Fund in previous years. The Williamsburg Land Conservancy is a local land trust that currently functions as a greenway advocacy group holding over 600 acres of land and conservation easements.

Utility Corridor Lease Agreements

Some localities charge utility companies for leases on County-owned land rather than selling easements or giving them the land. These leases can be used as a funding source to build and/or

maintain greenways and trails. The Northern Virginia Regional Park Authority uses this practice for the WO&D Trail.

Local Private-Sector Funding

Local industries and private businesses, such as John Deere, Solarex, Wal-mart, and Busch Corporation, may agree to provide financial support for greenway development on a regular basis or for a particular trail project. Donations of cash, materials, and/or in-kind services allow the County to leverage limited resources through this cooperative venture. Some examples include:

- Donations of cash to a specific greenway segment
- Donations of services by large corporations or businesses to reduce the cost of greenway implementation expenses including equipment and labor costs, and design and engineering services
- Reductions in the cost of materials purchased from local businesses that support greenway implementation and can supply essential products for facility development
- One example of a successful endeavor of this type was the Swift Creek Recycled Greenway in Cary, North Carolina. A total of \$40,000 in donated construction materials and labor made this trail an award-winning demonstration project. This method of raising funds requires a great deal of staff coordination. (Note: Some materials used in the "recycled trail" were considered waste materials by local industries!)

State Government Funding Sources

Virginia Department of Conservation and Recreation (DCR)

The Virginia Recreational Trails Fund is a grant program designed to build motorized and non-motorized trails in Virginia, including providing and maintaining recreational trails and trail-related facilities. This is a 20% reimbursement program, funded through the Transportation Efficiency Act (TEA-21) and administered through the Federal Highway Administration. Priority is given to those projects with the greatest number of compatible recreational purposes and/or provide for innovative recreational trail corridor sharing (multiuse trails). Costs are reimbursed only if they were incurred after authorization. Approved costs include design services and/or construction costs for new or rehabilitation projects. In previous years, the County was awarded \$82,000 in grants to develop boardwalks and surface improvements on the Greensprings Trail.

Virginia Department of Forestry (DOF)

The Urban and Community Forestry Assistance Program is designed to encourage projects that promote tree planting, care of trees, the protection and enhancement of forest ecosystems, and education of tree issues across the nation. This 50/50 cost-share can be used to assist in greenway development planning or educational programs. In previous years, the County was awarded \$10,000 in grants to develop and install interpretive signs on the Greensprings Trail.

Virginia Department of Transportation (VDOT)

VDOT is the state agency that administers federal funding from TEA-21. Along with the federal requirements for this money, VDOT has application policies and procedures. This is a reimbursement program, so costs are reimbursed only if they were incurred after authorization. Approved costs include land acquisition and design services. Greenway lands must be owned as rights-of-way, rather than exist as easements across private property. Furthermore, strict federal

guidelines apply to land acquisition for trail use (per the Uniform Relocation Assistance and Real Property Acquisition Policies Act). An environmental document is required during the Preliminary Engineering Phase. Consultant selection for design-development services must conform to certain state and federal procedures. Funding is contingent on a minimum 20% local match. Private contributions of donated right-of-way can be used to make the local match.

Federal Government Funding Sources

Some federal programs offer financial aid for projects that aim to improve community infrastructure, transportation, housing, and recreation programs. Examples of these federal programs are detailed in Appendix 13.6.b.

Grants through Private Foundations and Corporations

Most communities get some greenway funding from a variety of private foundations and other conservation-minded benefactors. Examples of these programs are detailed in Appendix 13.6.b.

Volunteer Assistance and Small-Scale Donation Programs

Greenway Sponsors

A sponsorship program for greenway amenities allows for smaller donations to be received both from individuals and businesses. The program must be well planned and organized, with design standards and associated costs established for each amenity. Project elements can include mile markers, call boxes, trash receptacles, benches, entry signage, directional signs, interpretive brochures, bollards, and picnic areas.

Volunteer Work

Community volunteers are an invaluable resource either in actual greenway construction or by conducting fund-raisers. Organizations in the County that have assisted in the past include the Boy Scouts, local school children, the William and Mary Environmental Club, Colonial Roadrunners, the Williamsburg Land Conservancy, and local civic clubs such as the Kiwanis, Rotary and Lions Clubs. A manual for greenway volunteers should be developed to guide and regulate volunteer work. The manual should include a description of appropriate volunteer efforts, request forms, waiver and release forms, and a completion form (where volunteers are asked to summarize their accomplishments). Written guidelines should also provide for volunteer work in 100-year floodplains.

A case in point is Greensprings Greenway. The community rallied an impressive amount of citizen support and volunteer work over a four-year period that included wildflower recovery, trail clearing, building puncheons and minor footbridges *with recycled materials*, native plant and animal identification, and guided trail hikes. Each fall, the community hosts Autumn Adventure at the Greensprings Greenway, an outdoor environmental fair that is more like an extravaganza. Environmental groups, civic organizations, government agencies, advocacy groups, and land trusts all gather to celebrate during this environmental awareness day.

Adopt-a-Spot Programs

The "Adopt-a-Spot" program is another type of volunteer activity designed to assist in day-to-day operations. Participants who adopt a segment of trail are responsible for periodic trash

pick-up, organic debris removal, and pruning trail-side vegetation, but can also install landscaping, develop wildlife enhancement projects, install site amenities, and be the eyes and ears of the local trail governing body. Volunteers are provided a phone number to report any major problems or user conflicts that may require police action. All improvements must be consistent with the Greenway Development Plan and must be approved by the local Greenway Coordinator. Adopt-a-Spot volunteers may be allowed to display their names on a small sign along the adopted section of greenway.

"Buy-a-Foot" Programs

"Buy-a-Foot" programs have been successful in raising funds and awareness for trail and greenway projects nationwide. Under local initiatives, citizens are encouraged to purchase one linear foot of greenway construction. An excellent example of a successful endeavor is the High Point Greenway "Buy-a-Foot" campaign, in which linear greenway "feet" were sold at a cost of \$25/foot. Those who donated were given a greenway T-shirt and a certificate. This project provided over \$5,000 in funds.